

HOUSE BILL 1635

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AN ACT to amend Tennessee Code Annotated, Title 4;
Title 12; Title 13; Title 29; Title 60; Title 65 and
Title 68, relative to petroleum.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 65, Chapter 28, is amended by adding
SECTIONS 2-5 as a new part:

SECTION 2. With respect to the siting and regulation of petroleum pipelines in this
state, the general assembly finds that:

(1) The natural resources, environment, and vital areas of this state are of
utmost importance to this state and its citizens, and the state of Tennessee has an
essential public interest in establishing minimum standards for land use in order to
protect and preserve its natural resources, environment, and vital areas;

(2) Pipeline companies acquire property or interests in property through the use
of eminent domain;

(3) The procedures that pipeline companies are required to use to exercise such
powers of eminent domain have not been reviewed or studied by the general assembly;

(4) Technology has significantly advanced in the past decade, and the pipeline
industry has also changed;

(5) The vitally important issue of land use impacts associated with pipelines that
are presently in use and being developed for future use merits a detailed study by
elected officials and experts in this field to ensure that the exercise of eminent domain by
pipeline companies is carried out in a prudent and responsible manner consistent with

this state's essential public interest in establishing minimum standards for land use in order to protect and preserve its natural resources, environment, and vital areas; and

(6) A temporary moratorium on the exercise of eminent domain powers of pipeline companies through June 30, 2023, would provide the general assembly with time to study the need for changes to land use controls or restrictions related to pipeline companies seeking to deliver petroleum to residents of this state or other states, including, but not limited to, those related to siting of pipelines, and to assess various proposals relating to the eminent domain powers that pipeline companies presently enjoy, the issuance of certain environmental permits to pipeline companies, and the enactment of additional laws to ensure the consistency of pipeline development and operation with the state's land use goals and standards.

SECTION 3. As used in this part:

(1) "Commission" means the commission on petroleum pipelines created pursuant to SECTION 4;

(2) "Pipeline" means a pipeline constructed or to be constructed as a common carrier in interstate or intrastate commerce for the transportation of petroleum or petroleum products in or through this state;

(3) "Pipeline company" means a corporation:

(A) Organized under the laws of this state or another state;

(B) Authorized to do business in this state; and

(C) Specifically authorized by its charter or articles of incorporation to construct and operate pipelines for the transportation of petroleum and petroleum products; and

(4) "Pipeline facility":

(A) Means a pipeline and all equipment or facilities essential to the operation or construction of the pipeline, including lateral lines; and

(B) Does not include storage tanks or storage facilities that are not being constructed as a part of the operation of a pipeline.

SECTION 4.

(a) There is created the commission on petroleum pipelines to be composed of:

(1) Three (3) members appointed by the speaker of the house of representatives;

(2) Three (3) members appointed by the speaker of the senate;

(3) The commissioner of environment and conservation or the commissioner's designee;

(4) The commissioner of economic and community development or the commissioner's designee; and

(5) Five (5) members appointed by the governor, including one (1) member who must represent the petroleum industry and four (4) members who must represent a cross section of the interests of local government, business, agriculture, and conservation.

(b) The speaker of the house of representatives and the speaker of the senate shall each select a co-chair. The co-chairs shall call all meetings of the commission.

(c) The departments of environment and conservation and economic and community development shall provide administrative support for the commission, as appropriate.

SECTION 5.

(a) The commission shall, before December 31, 2022:

(1) Examine the impacts on land associated with pipeline siting, construction, and operation, including impacts associated with potential leaks and spills;

(2) Examine the current legal and regulatory structure pertinent to the protection of land uses and natural resources from impacts associated with pipeline siting, construction, and operation;

(3) Examine the manner in which pipeline companies acquire private property and the siting procedures used during and after acquisition;

(4) Consider the rights of property owners affected by the acquisition of private property, including, without limitation, whether adequate compensation is provided for under existing law, and whether adequate remedies exist under existing law for property owners who may be impacted by any negative outcomes as the result of the construction and operation of a pipeline, regardless of whether negligence exists on the part of the pipeline operator;

(5) Consider more broadly whether the existing legal and regulatory system pertinent to the siting, construction, and operation of pipelines is consistent with and implements this state's essential public interest in establishing minimum standards for land use in order to protect and preserve its natural resources, environment, and vital areas;

(6) Consider legal and regulatory mechanisms by which pipeline companies can be appropriately regulated in order to ensure siting of pipelines that is consistent with current state and local land use policies and the protection of natural resources;

(7) Consider whether the regulation of siting procedures is necessary to protect the residents of this state in consideration of whether the pipeline is delivering petroleum to customers inside or outside this state;

(8) Prepare a report summarizing the findings of the commission and submit the report to the speaker of the senate, the speaker of the house of representatives, and the chairs of each of the standing committees of the senate and house of representatives that regularly consider proposed legislation related to transportation, energy, or natural resources; and

(9) Recommend to the general assembly proposed legislation as necessary to accomplish the continuing goal of ensuring that pipeline siting, construction, and operation are consistent with and implement the state of Tennessee's essential public interest in establishing minimum standards for land use in order to protect and preserve its natural resources, environment, and vital areas and to best serve the residents of this state.

(b) The members of the commission are not entitled to compensation, travel costs, or per diem and serve at the pleasure of their appointing authorities, as applicable.

(c) The commission may conduct meetings at places and times that it deems necessary or convenient to enable it to exercise fully and effectively its powers, perform its duties, and accomplish the objectives and purposes of this part.

(d) The commission is dissolved on July 1, 2023.

SECTION 5.

(a)

(1) Notwithstanding any law to the contrary, each state or local law, ordinance, resolution, or other grant of authority authorizing a pipeline company

to exercise eminent domain is temporarily suspended beginning on the effective date of this act until July 1, 2023, in order to allow the commission to complete its report and recommendations and to allow the general assembly to act on those recommendations during the 2023 legislative session.

(2) Beginning on the effective date of this act until July 1, 2023:

(A) A pipeline company shall not exercise eminent domain or condemn a property for the purpose of siting, constructing, or operating a pipeline;

(B) The Tennessee public utilities commission shall not accept an application for or issue a certificate of public convenience and necessity to a pipeline company in accordance with chapter 4 of this title;

(C) The department of environment and conservation shall not accept an application or issue a permit for the construction of new pipeline; and

(D) A state officer, official, or employee or a state agency, department, commission, or committee shall not issue an approval, permit, or document necessary for the construction of new pipeline, including, but not limited to, the granting of an easement, deed, license, or permission to cross over, under, or through a:

(i) Body of water, state wildlife management area, heritage or historic preserve area, or historical site within this state; or

(ii) Public road of the state highway system.

(b) The temporary suspension of the power of eminent domain provided in subdivision (a)(1) and temporary suspension of the issuance of approvals, permits, or

documents provided in subdivision (a)(2) do not apply to acquisitions, approvals, permits, or documents for the purposes of:

(1) Maintaining an existing pipeline facility in place;

(2) Replacing lines within two hundred feet (200') of an existing pipeline facility; or

(3) Relocating temporary work space for repairs of an existing pipeline facility constructed and in use prior to the effective date of this act.

(c) This section does not affect or impair the power of eminent domain that may be exercised by utilities, companies, or persons under existing law who are or may be engaged in constructing or operating pipelines for the transportation or distribution of natural or artificial gas and by persons who are or may be engaged in furnishing natural or artificial gas for heating, lighting, or power purposes in this state.

SECTION 6. This act takes effect upon becoming a law, the public welfare requiring it.